

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

IN RE ST. JUDE MEDICAL, INC., :
SILZONE HEART VALVES PRODUCTS :
LIABILITY LITIGATION : MDL DOCKET NO. 1396

PRETRIAL ORDER NO. 20

The parties having stipulated thereto, the Court orders:

I. CASE-SPECIFIC FACT DISCOVERY

A. Governing Law: Case-specific fact discovery shall be governed by applicable Federal Rules of Civil Procedure and Local Rules except as otherwise provided herein or in any other Pretrial Order. Nothing in this order shall be construed to modify or amend previously entered orders concerning merits discovery or expert discovery.

B. Discovery Initiation Date: For purposes of this Order and for purposes of discovery in MDL 1396, the Court establishes a "case-specific discovery initiation date" ("DID") which is:

1. September 1, 2002 for those civil actions that were originally filed in or transferred to and docketed in the District of Minnesota on or before September 1, 2002;

2. the first day of the month following the date that a civil action is filed in or transferred to and docketed in the District of Minnesota to the extent such an event occurs after September 1, 2002.

3. The Court may extend the deadlines established by this Order for good cause shown.

C. Plaintiff's Initial Disclosures: Within one (1) month of the entry of this order or one (1) month of the DID, whichever is later, each plaintiff shall deliver to defendants (a) the disclosures required by Fed.R.Civ.P. 26(f), (b) hard copies of all documents identified in the Rule 26(f) disclosure and (c) a completed Plaintiff's Initial Disclosure in the form attached as Exhibit 1 to Pretrial Order No. 2. To the extent such information has been previously provided to defendants pursuant to Pretrial Order No. 2, each plaintiff is obligated to provide all later acquired information and/or documents bearing on all disclosures previously made by such plaintiff to the extent required by Rule 26(e).

D. Medical Examinations. Within six (6) months of the DID (i.e., by March 1, 2003 for cases with a DID of September 1, 2002), Defendants may move for orders scheduling medical examinations of plaintiffs pursuant to and in accordance with the requirements of Fed.R.Civ.P. 35, except that a plaintiff shall not be required to travel an unreasonable distance for medical examinations. In the event that a medical examination is to take place requiring plaintiff to travel more than fifty (50) miles, the party requesting the examination shall tender to plaintiff's counsel five (5) calendar days in advance of such examination a sum equal to the

reasonable round-trip travel and lodging expenses to be incurred by plaintiff, and one attorney for plaintiff, to attend the examination.

E. Completion of Case Specific Fact Discovery: Case specific fact discovery shall be completed within seven (7) months of the DID (i.e., by April 1, 2003 for cases with a DID of September 1, 2002).

F. Mandatory Mediation: Within (10) months of the DID (i.e., by July 1, 2003 for cases with a DID of September 1, 2002), the parties shall stipulate to a mediator or establish an order for mediation of the individual cases. If the parties are unable to agree, the court shall appoint a mediator. All such mediations will be held in Minneapolis, Minnesota, unless otherwise agreed to by the parties.

G. Disclosure of Plaintiff's Experts: Within eight (8) months of the DID (i.e., by May 1, 2003 for cases with a DID of September 1, 2002), plaintiff shall identify duly-qualified generic and case-specific experts and provide the disclosures required by Fed.R.Civ.P. 26(a)(2)(A).

H. Disclosure of Defendants' Experts: Within nine (9) months of the DID (i.e., by June 1, 2003 for cases with a DID of September 1, 2002), defendants shall identify duly-qualified generic and case-specific experts and provide the disclosures required by Fed.R.Civ.P. 26(a)(2)(A).

I. Disclosure of Supplemental Experts: Within ten (10) months of the DID, plaintiff shall identify any supplemental experts who will offer expert opinions on topics for which defendants have identified an expert, but for which plaintiff has

not yet identified an expert, and provide the disclosures required by Fed.R.Civ.P. 26(a)(2)(A).

J. Depositions of Generic Experts: Depositions of the parties' generic experts shall be governed by the terms of Pretrial Order No. 21.

K. Depositions of Case Specific Experts: Within forty-five (45) days of the identification of case-specific experts hereunder, the parties may take the deposition of such case-specific experts. It is understood and agreed between the parties that unless otherwise agreed or ordered by the Court, the depositions of plaintiff's experts shall proceed first followed by the depositions of defendants' experts.

II. REMAND PROCEDURES

A. Remand Report

In order to monitor the completeness of discovery in cases where all discovery deadlines are expired, within twelve (12) months of the DID (i.e., by September 1, 2003 for cases with a DID of September 1, 2002), the parties are required to complete and submit a joint report to the Court containing information about remaining discovery, if any, and disputes between the parties. The purpose of the report is to facilitate the completion of each parties' pretrial efforts prior to remand. Upon receipt of a Remand Report from the parties, the Court may either order the case remanded to its home jurisdiction or make such orders so as to allow the completion of discovery

B. Record on Remand: Once the Court has ordered that a particular case be remanded, the parties shall stipulate to this Court the portions of the record that are to be returned to the transferor court. That portion of the record can then be combined with the record that already exists in the transferor court, providing the transferor court with the entire file necessary for the ultimate disposition of the case

C. Discovery After Remand: In the event there is a significant delay between the date of remand and the trial date in a particular case, for good cause shown, any party may petition the transferor court for additional case-specific discovery.

IT IS SO ORDERED:

Honorable John R. Tunheim

ENTERED: September 9, 2002